

AO 91 (Rev. 11/11) Criminal Complaint

## UNITED STATES DISTRICT COURT

for the

Southern District of Mississippi

**Filed**

NOV 1 2016

U.S. Magistrate Judge

United States of America

v.

NELSON TOTOZ-CHUC

Case No.

3:16-mj-599-FKB

Defendant(s)

**CRIMINAL COMPLAINT**

I, the complainant in this case, state that the following is true to the best of my knowledge and belief.

On or about the date(s) of November 2, 2016 in the county of United States of America in the  
Southern District of Mississippi, the defendant(s) violated:

*Code Section*

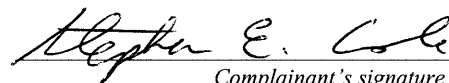
8 U.S.C. Section 1326(a)(1) &amp; (2)

*Offense Description*

That Nelson Totoz-Chuc, an alien to the United States and a citizen of Guatemala, was found in the United States after having been previously removed therefrom pursuant to law on or about July 22, 2016 at the Phoenix, Arizona port, and not having obtained the express consent of the Attorney General of the United States or the Secretary of Homeland Security to re-enter the United States.

This criminal complaint is based on these facts:

See Attached Affidavit of Special Agent Stephen E. Cole of the Homeland Security Investigations (HSI) and Immigration and Customs Enforcement (ICE) Agencies. The Affidavit is attached hereto and incorporated herein by reference.

☒ Continued on the attached sheet.


Complainant's signature

Stephen E. Cole

Printed name and title

Sworn to before me and signed in my presence.

Date: 11/14/2016


Judge's signature

City and state: Jackson, Mississippi

Hon. F. Keith Ball, U.S. Magistrate Judge

Printed name and title

AFFIDAVIT

I, Stephen E. Cole, being duly sworn, do hereby depose and state the following

1. I am employed as a Special Agent with Immigration and Customs Enforcement (ICE) (Previously the United States Customs Service), Homeland Security Investigations, United States Department of Homeland Security, Jackson, Mississippi, and have been so employed since April 1987. I am currently assigned to the financial investigations and the work site enforcement programs. I have received training and been assigned to conduct investigations of criminal violations of the United States Code as enumerated in Titles 8, 18, 19, 21, 22, 31 and various other federal statutes.

2. I submit this affidavit based on information known to me personally from the investigation, as well as information obtained from others who have investigated the matter or have personal knowledge of the facts herein. This affidavit is being submitted in support of a criminal complaint against Nelson TOTOZ-Chuc and as such does not include all of the information known to me as part of this investigation, only information sufficient to establish probable cause for the issuance of a criminal complaint against Nelson TOTOZ-Chuc for a violation of Title 8, United States Code, Section 1326 (a) (Re-entry of Removed Aliens).

3. On November 2, 2016, U.S. Border Patrol officers from the Gulfport, Mississippi Office conducted an anti-smuggling operation along I-20 East near Forest, Mississippi. A

United States Border Patrol officer observed a black Honda Odyssey van that appeared to be weighted down bearing a Texas license plate on the rear of the vehicle but not on the front of the van. The U.S. Border Patrol officers followed behind the van in their marked U.S. Border Patrol vehicle. The U.S. Border Patrol officers queried the Texas vehicle tag FGN2775 for border crossings, ownership and records of illegal activity. The vehicle had a TECS entry identifying it as being associated with an illegal alien transportation organization based in Houston, Texas. U.S. Border Patrol has an active investigation of the members of this particular alien smuggling and transportation organization. At approximately 0540 hours, U.S. Border Patrol conducted an immigration stop of the van at mile marker 80. The van was found to be transporting five Guatemalans (4 males, 1 female), 2 Mexicans (males) and three El Salvadorans (males). All nine passengers were identified as being illegally present in the United States. Three of the passengers were identified as having been previously deported from the United States. One of the three previously deported individuals was Nelson TOTOZ-Chuc.

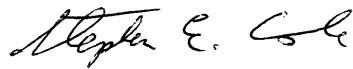
4. HSI special agents electronically scanned and queried the fingerprints of a male Guatemalan National identified as Nelson TOTOZ-Chuc through the IDENT System as part of the interview process. The IDENT System produced a record of one prior arrest and removal from the United States for Nelson TOTOZ-Chuc with supporting photographs based on a positive match of his fingerprints.

5. On July 11, 2016, Nelson TOTOZ-Chuc was apprehended by the U.S. Border Patrol in Sasabe, Arizona. Nelson TOTOZ-Chuc was assigned the Alien Number 209-122-303. He admitted to illegally entering the United States via the Arizona/Mexico Border on July 11, 2016. U.S. Border Patrol officers charged Nelson TOTOZ-Chuc with violation of 212(a)(7)(A)(i)(I) (Immigrant Without an Immigrant Visa). He was processed for removal.

6. On July 22, 2016, Immigration and Customs Enforcement issued Nelson TOTOZ-Chuc an Excludable/Inadmissible Administrative Order of Expedited Removal at the Florence Processing Center in Arizona. On July 22, 2016, Nelson TOTOZ-Chuc was removed from the United States to Guatemala. The Port of Departure was Phoenix, Arizona. Nelson TOTOZ-Chuc was advised that he was barred from re-entering the United States for five (5) years.

7. On November 2, 2016, HSI special agents and U.S. Border Patrol officers interviewed Nelson TOTOZ-Chuc regarding his entry to the United States. Nelson TOTOZ-Chuc admitted that he is a native and citizen of Guatemala. Nelson TOTOZ-Chuc also stated that he entered the United States by crossing the Rio Grande River into Texas, from Mexico during the last week of October 2016. Nelson TOTOZ-Chuc further admitted HSI special agents and U.S. Border Patrol officers that he had not been lawfully admitted to the United States by a U.S. Immigration Officer.

Based upon the preceding facts, there is probable cause to believe that Nelson TOTOZ-Chuc is an alien who was found in the United States after having been previously removed from the United States and having reentered the United States without obtaining the permission of the Attorney General of the United States in violation of Title 8, United States Code, Section 1326(a) (Reentry of Removed Aliens), a Felony.



Stephen E. Cole  
Special Agent  
Homeland Security Investigations

Subscribed and sworn before me this 14<sup>th</sup> of NOVEMBER 2016



Judge F. Keith Ball  
UNITED STATES MAGISTRATE JUDGE